IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 18TH DECEMBER 2006 / 27TH AGRAHAYANA 1928

WP(C).No. 28049 of 2006(L)

PETITIONER:

MRS.FATHIMA. M., AGED 46 YEARS,
W/O. LATE IBRAHIM MASTER, KATTIKULAM,
THIRUNELLI, WAYANAD.

BY ADV. SRI.KRISHNA PRASAD. S
SRI.S.ASHOK KUMAR.

RESPONDENTS:

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1. THE SUB INSPECTOR OF POLICE,
THIRUNELLI POLICE STATION, WAYANAD.

2. THE SUPERINTENDENT OF POLICE,
CRIME BRANCH CID, SIG III, KOZHIKODE.

3. THE SUPERINTENDENT OF POLICE,
CENTRAL BUREAU OF INVESTIGATION, ERNAKULAM.

4. STATE OF KERALA REPRESENTED BY
THE SECRETARY, DEPARTMENT OF HOME AFFAIRS
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

BY ADV. SRI.S.SREEKUMAR, SC FOR CBI
GOVERNMENT PLEADER SRI.K.A.AKBAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

R.BASANT, J.

W.P.C.NO.28049 OF 2006

Dated this the 18th day of December, 2006.

JUDGMENT

The petitioner is the wife of the deceased who was stabbed to death on 29.10.2001 by an unknown person who had allegedly robbed the deceased of certain amount also. Though the alleged incident had taken place 5 years back, the investigation has not led the Investigators to any specific, definite and proper conclusion. Investigation is still in progress. It is the grievance of the petitioner that the failure to detect the offence is on account of the insufficient and improper investigation which is conducted. A more serious investigation deserves to be conducted and therefore investigation may be directed to be continued/conducted by a specialiased agency. This in short is the prayer.

2. The learned Public Prosecutor submits that though it is true that the mystery of the crime has not been resolved yet, it would be improper and unfair to attribute to the Investigator any inadequacy in the conduct of the investigation. All that is possible has been done. But the Investigator has not been able to resolve the crime. Active efforts are in progress. In the

report filed, the Investigating Officer has explained to the Court in detail the present stage of the investigation and the efforts which are being made now. The case diary is placed before the Court.

3. Having considered all the relevant inputs, I am unable to come to a conclusion that the failure to resolve the crime and get at the offender is attributable to any inadequacy in the investigation. A monkey cap with some strands of hair which did not belong to the deceased was found available at the scene of the crime. The police was working on that only definite clue which was available at the scene. No better or further data is available to lead the police any further. It is also reported that some discreet information of the alleged statement made by a prisoner in custody to a co-prisoner about the alleged involvement of that person in this alleged crime was received and efforts are being made to make progress with the help of that indication which has been collected.

4. Suffice it to say that though the failure to resolve the crime even after a lapse of half a decade is unfortunate, it is felt that the situation is not attributable to any specific inadequacy on the part of the Investigating Officer.

5. This Writ petition is, in these circumstances, dismissed. However I proceed to observe that the Investigating Officer must make every possible effort to resolve the crime. The petitioner shall be at liberty o approach this Court after the lapse of 6 months from today if crime still remains unresolved.

R.BASANT
JUDGE

rtr/